

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	20-NOI-01
Notice of Inquiry Regarding	)	
Energy Affordability	)	

**COMMENTS OF THE PEOPLE OF THE STATE OF ILLINOIS**

Pursuant to 2 Ill. Adm. Code Part 1700, the People of the State of Illinois (the "People" or the "AG"), through Kwame Raoul, Attorney General of the State of Illinois, submit their Comments in response to the Notice of Inquiry issued March 18, 2020, by the Illinois Commerce Commission (the "Commission" or the "ICC"), in the above-styled docket.

**I. Introduction and Background**

Energy insecurity is a national crisis. *How High Are Household Energy Burdens?* American Council for an Energy-Efficient Economy at page vi, (Sept. 10, 2020) ("ACEEE").<sup>1</sup> Energy insecurity is a household's inability to meet its basic energy needs. *Id.* at 1. One metric that researchers use to determine energy insecurity is a household's "energy burden," the percentage of household income spent on home energy bills. *Id.* Energy burden incorporates heating, cooling, and other energy costs, but does not include the costs of water and other necessities. *See id.* The median household energy burden in the United States is 3.1%. *Id.* at iv. Households that spend more than 6% of their income on home energy bills have a "high energy burden." *Id.* at iii. Households that spend more than 10% of their income on home energy bills have a "severe energy burden." *Id.* Households that experience high and severe energy burdens

<sup>1</sup> <https://www.aceee.org/research-report/u2006>

are disproportionately low-income, renters, ages 65 or older, Black, Latinx, and Native American. *Id.*

More than 25% of U.S. households experience high energy burdens, approximately half of which experience severe energy burdens. *Id.* 67% of low-income households experience high energy burdens, more than half of which experience severe energy burdens. *Id.* On average, low-income households spend 8.1% of their income on home energy bills, while median-to-high income households only spend 2.3%. *Id.* On average, adults, ages 65 and older, spend 4.2% of their income on home energy bills. *Id.* at iv. Renters spend 3.4% on home energy bills overall, while homeowners spend 3.0%. *Id.* at iii. Black households spend an average of 4.1% on home energy bills, Native American households spend 4.2%, Latinx households spend 3.5%, and white households spend 2.8%. *Id.*

Of the United States' nine Census regions, the East North Central region (which includes Illinois, Indiana, Michigan, Ohio, and Wisconsin) ranks second in the total number of households with high energy burdens (5.4 million) and the percentage of households with high energy burdens (tied at 29%). *Id.* at iv. The average low-income household in Illinois spent \$1,040 more than it could afford on home energy bills in 2019. *The Home Energy Affordability Gap 2019*, Illinois, Fisher, Sheehan, & Colton (April 2020) (“*Affordability Gap*”).<sup>2</sup> While a significant portion of all low-income people in Illinois are energy insecure, those making less than 50% of the Federal Poverty Level (“Poverty Level” or “FPL”) have the highest burdens. *Id.* The following table from *The Home Energy Affordability Gap 2019*, shows low-income energy

<sup>2</sup> [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.html](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html)

burdens in Illinois.

Percentage of FPL	Number of Households	Home Energy Burden
Below 50%	294,748	30%
50-100%	344,203	16%
100-125%	200,656	11%
125-150%	196,143	9%
150-185%	279,994	7%
185-200%	119,476	6%

In total, 1,435,220 (13%) Illinois households have incomes at or below 200% of FPL and are low-income. *Id.*

Many low-income people cannot afford to pay their energy bills, despite consistently participating in the US workforce. In 2018, approximately seven million people in the United States participated in the workforce for at least twenty-seven weeks out of the year and still remained below the FPL. *A profile of the working poor, 2018*, U.S. Bureau of Labor Statistics at page 1 (July 2020).<sup>3</sup> These individuals, who are designated “the working poor” by the U.S. Bureau of Labor Statistics, are more likely to be Black, Latinx, and Women. *Id.* 78% of the working poor are unable to rise above the FPL due to labor market problems such as “low

<sup>3</sup> <https://www.bls.gov/opub/reports/working-poor/2018/home.htm#:~:text=About%2038.1%20million%20people%2C%20or,to%20the%20U.S.%20Census%20Bureau.&text=The%20working%2Dpoor%20rate%20of,or%20more%20was%204.5%20percent.>

earnings, periods of unemployment, and involuntary part-time employment.” *Id.* at 6. Low earnings are the most significant labor market problem in the United States. *Id.*

Energy insecurity will likely be exacerbated by the Covid-19 pandemic and its accompanying record levels of unemployment. ACEEE at 6. As of September 11, 2020, thirty counties in Illinois are at a Covid-19 “Warning Level.” *30 Illinois Counties at Warning Level for Coronavirus Disease*, Illinois Department of Public Health, (Sept. 11, 2020).<sup>4</sup> Twenty of these 30 counties already exceeded the state’s average energy burden for the lowest-income households in 2019. *See Affordability Gap*. Twenty-nine of these counties had lower wages than the statewide average and 28 had lower wages than the national average in 2019. *See County Employment and Wages in Illinois – Fourth Quarter 2019*, U.S. Bureau of Labor Statistics (June 29, 2020).<sup>5</sup> If the pandemic continues to increase unemployment and energy insecurity, as predicted, the unaffordability crisis could expand and more heavily burden Illinois’ most vulnerable households.

The Illinois General Assembly recognized that society benefits from affordable utilities with minimal disconnections and arrearages. 305 ILCS 20/2(a)(1), (a)(5). The EAA states that “the health, welfare, and prosperity of the people of the State of Illinois require that all citizens receive essential levels of heat and electric service regardless of economic circumstance.” *Id.* at (a)(1). The General Assembly granted the Department of Commerce and Economic Opportunity (“DCEO”) the right to oversee the state’s Energy Assistance Program, but made clear that the EAA does not strip the ICC of any of its powers of utility regulation. 305 ILCS 20/4(a)-(b). The

<sup>4</sup> <https://www.dph.illinois.gov/news/20-illinois-counties-warning-level-coronavirus-disease>

<sup>5</sup> [https://www.bls.gov/regions/midwest/news-release/countyemploymentandwages\\_illinois.htm](https://www.bls.gov/regions/midwest/news-release/countyemploymentandwages_illinois.htm)

ICC has the power to regulate utilities' payment practices, discontinuance of service procedures, and treatments of deposits and arrearages. *Id.* at (b). As the body with the right to comprehensively regulate utilities, the ICC should take proactive steps to ensure that home energy costs are affordable and that collection practices accommodate customers with high energy burdens to the greatest extent possible. This process includes working with other agencies and organizations, including the DCEO, consumer advocates, and community leaders, and building upon the work of other states.

In 2016, New York Governor Andrew Cuomo announced a plan “to ensure that no New Yorker spends more than 6% of their household income on energy... through a combination of enhanced bill assistance, energy efficiency, and increased coordination among state agencies responsible for energy, bill assistance, and affordable housing.” ACEEE at 23. In 2017, Oregon Governor Kate Brown issued an executive order for the Oregon Housing and Community Service Department, Department of Energy, and Public Utility Commission to increase affordability and prioritize “energy efficiency in public housing.” *Id.* In 2019, Washington State enacted the Clean Energy Transformation Act which, in part, requires the Washington Department of Commerce to “consult with local advocates of vulnerable populations and low-income households to improve energy assistance programs.” *Id.* In 2020, the Pennsylvania Public Utilities Commission directed public utilities to “ensure that low-income customers spend no more than 10% of their income on energy bills and that the lowest-income customers spend no more than 6% of their income on energy bills.” *Id.* Numerous other cities and states have committed to reducing energy burdens, by focusing their efforts on communities experiencing disproportionate effects of energy insecurity. *See e.g. Id.* at 63-64.

The current energy insecurity crisis needs to be addressed at every level of government. *Id.* at 18. People can apply for assistance through the Percentage of Income Payment Plan (“PIPP”) and Low-Income Home Energy Assistance Program (“LIHEAP”), 305 ILCS 20/18, but these programs only begin to address the state’s energy insecurity problem. In 2019, \$172,195,000 of LIHEAP funds were used to pay 194,570 bills in Illinois—a small fraction of the bills accrued each year by the state’s more than 1.4 million low-income households. *Affordability Gap*. The recommendations that the Office of the Illinois Attorney General (OAG) presents in this comment are just some of the many ways that the ICC can use its power to help address the energy insecurity crisis in Illinois.

## **II. Summary of Recommendations**

- a. Define and Work Toward Ambitious Goals – The Illinois Commerce Commission has significant power to work toward statewide energy affordability. By setting ambitious goals and working with the communities most affected by energy insecurity, along with other agencies, authorities, and organizations, the ICC can lead the way for Illinois’ energy future.
- b. Target Assistance to Vulnerable Customers and Communities: While energy assistance and efficiency have the potential to benefit all Illinoisans, the Commission should first target its efforts toward helping communities that are disproportionately affected by energy insecurity. By focusing its efforts, the ICC can ensure that more households are energy efficient, energy is more affordable, vulnerable populations are served, and public health improves.
- c. Enforce Collection Practices, Increase Reporting Requirements and Analyze Data: ICC Rules contain many bill collection protections for vulnerable

households, but the Commission cannot be sure of the effectiveness of these regulations nor identify communities that need further support without comprehensive and uniform reporting from utilities. The ICC should increase utility reporting requirements to help target the Commission's affordability work and require that utilities report, at a minimum, the metrics required by the 2020 Moratorium, Order, Stipulation Exhibit 1 at page 16.

**d. Prohibit Utilities from Disconnecting Customers Who Pay an Affordable Amount**

Toward Their Bills: Many ratepayers cannot afford their home energy bills, despite efforts to pay. The Commission should prevent utilities from disconnecting customers who pay a regular and affordable amount toward their monthly bills.

**e. Focus Energy Efficiency Efforts [On](#) Weatherization and Improving Housing**

Standards: The Commission should work with the Utilities, DCEO, and consumer organizations to target energy efficiency efforts toward weatherizing and improving housing conditions for the state's most vulnerable households.

**f. Expand the affordability discussion to include water and wastewater service.**

Even as the focus of this NOI is on energy, the same low-income customers facing energy insecurity and energy burden face high water and wastewater bill burden too. The People recommend that the Commission's ultimate plan of action encompass **essential** water and wastewater services as well as energy services.

### **III. Notice of Inquiry Questions and Responses**

**a. Definitions**

The Commission should set ambitious goals to close the energy affordability gap and make basic utilities affordable for all Illinois households. This process starts with defining the Commission's goals and metrics.

**Affordability:** Affordability parameters need to be defined from the perspective of the lowest income group because the lower the income the greater the impact of any payment. For instance, consider two people each of whom have a 10% energy burden. Person A has a monthly income from SSI of \$783, pays \$78, and has \$705 for the remainder of the month. Person B has a monthly income of \$1,566, pays \$156 and has \$1,410 for the remainder of the month. The 10% energy burden has a far greater impact on Person A's ability to cover their water, wastewater, food, rent, clothing, and medical expenses for the rest of the month than the 10% energy burden has on Person B.

The Commission should define affordability at a number below 6% of annual household income, and approaching the national median energy burden of 3.1% of annual household income. While researchers define high and severe energy burdens as 6% and 10% of income, respectively, paying energy bills become more as difficult the energy burden moves above the national average. New York State is working toward ensuring that no household pays more than 6% of its income on home energy bills. ACEEE at 64. The City of Saint Paul, Minnesota is working toward ensuring that no household spends more than 4% on home energy bills. *Id.* at 63. The ICC should define energy and water affordability at or near 3.1% of household income and work to ensure that no household is required to pay basic utility costs above this amount. This will address the affordability crisis before consumer burdens become "high" and "severe."



As for the bill burden of water and wastewater service, an acceptable affordability standard is provided by researchers who have determined that the base level of affordability of water and wastewater service is 4% of the customer household income. See, *The Affordability of Water and Wastewater Service in Twelve U.S. Cities: A Social, Business, and Environmental Concern* Roger D. Colton, Sheehan & Colton, Public Finance and General Economics May 2020. Available online: <https://www.theguardian.com/us-news/2020/jun/26/running-drinking-water-poverty-us-cities>. Water and waste water (combined) service affordability should be evaluated based upon this metric.

**Critical Medical Needs Customers:** The critical medical needs customer category should be expanded to include a customer who has a certified medical necessity and qualifies for a medical payment arrangement under 83 Ill. Adm. Code 280.160. Specifically, any customer or resident of a customer's household who has a medical condition that would be exacerbated by loss of service and obtains medical certification from a licensed physician or local board of health, and informs the utility of this certification under the terms of the ICC Rules. *Id.* Currently the registry for customers with critical medical needs is limited to residential electric registry customers who rely on electrically operated medical equipment as identified in 220 ILCS 5/8-204) (from Ch. 111 2/3, par. 8-204<sub>[LP1]</sub>). The expanded definition acknowledges the critical importance of access to fresh water for a diabetic at risk of a foot amputation or the critical importance of twice daily breathing treatments for a COPD patient.

**Disconnection:** Disconnection, even short-term, is truly disruptive. Food and medicine may be lost and need to be replaced but the family may not have the funds to replace the food until next month. Can the medicine be replaced before next month? Did the children miss online school? Were the adults able to go to work? If not, the hours lost are likely not compensated so the

family income will decrease. If the family has well-water the well-pump likely loses power when the electricity was disconnected.

One LIHEAP caseworker with 12-years' experience with PIPP and LIHEAP clients offered the following thoughts on the impact of a disconnection:

Disconnections are truly disruptive to their lives. The population we serve have multiple health problems and breathing issues as well as the need for refrigerated medications, and of course food. Having a disconnection lasting even a day can result in a cascade of extenuating circumstances for all of the above reasons, and most disconnections last far longer than one day, even when we work as efficiently as possible to provide a benefit.

It is doubtful that many customers choose to not pay the bill so that they can experience service disconnection. Essential utility services are called essential because they are: one cannot live a healthy, safe and sanitary life without the ability to wash, flush waste out of the home, keep food cold, cook food, maintain a healthy ambient temperature and have warm water. Any customer who is working with the utility and attempting to enter into and keep an affordable payment arrangement should never face disconnection.

**Energy Burden:** The Percentage of household income spent on energy bills. ACEEE at 1.

**High:** Households that spend more than 6% of their income on home energy bills. *Id.* at iii.

**Severe:** Households that spend more than 10% of their income on home energy bills. *Id.*

See discussion above in Affordability concerning the household's water and wastewater bill burden which should require no more than 4% of their income.

**Energy Insecurity:** The inability to adequately meet basic household heating, cooling, and energy needs over time. *Id.* at 1. This definition does not include costs of water and other necessities, but the Commission should be cognizant of these other burdens when addressing energy affordability issues. A recent Chicago study found that 89% of low-income homeowners experienced energy insecurity in 2018 – 2019: indicators included spending less for other basics such as food and rent in order to pay for utilities, keeping the temperature at an uncomfortable or unhealthy level to reduce cost. While 89% of Chicago low-income homeowners experience energy insecurity, only 38% received assistance. *Energy Insecurity Among Chicago Homeowners*, (“Energy Insecurity - Homeowners”) Elevate Energy at page 4. Available online: <https://www.elevateenergy.org/research/publications/>

**Low-Income Households:** Households with income at or below 200% of the Federal Poverty Level. ACEEE at 4.

**Vulnerable Customers:** Vulnerable customers are those who are more likely to experience high and severe energy burdens. These customers are disproportionately low-income, renters, older, Black, Latinx, and Native American. *Id.* at iii. The distinction between “low-income households” and “vulnerable customers” is important, because not all customers who are disproportionately impacted by energy insecurity are “low-income” as the term is typically defined. People who make above 200% FPL may still experience high energy burdens, due to inefficient housing or other debts and expenses. The myriad issues affecting ratepayers across Illinois are intersectional. As noted by ACEEE, the same groups that experience high energy burdens “often experience racial segregation, high unemployment, high poverty rates, poor housing conditions, high rates of certain health conditions, lower educational opportunity, and barriers to accessing

financing and investment.” *Id. at 2*. The Commission should consider the experiences of vulnerable customers when adopting energy affordability policies.

### **Undefined Terms Critical to Understanding Utility Service Affordability**

There are not so much undefined terms as there are undefined experiences that are critical to understanding utility service affordability. One must acknowledge that utility service affordability is an issue rife with complexity and that flexibility is needed to achieve a resolution. Energy usage is rarely in the low-income or vulnerable customer’s total control. High bills may not be the result of a customer who makes no effort to limit energy use. Rather, the energy bill is relatively high but because the customer lives in a dwelling with sieve like walls and roof, has old appliances that drain power, or is paying high energy charges to alternative retail energy suppliers. Consider the comments below provided by a LIHEAP caseworker:

These Budget bills for electricity become high for a variety of reasons – many of which are really out of the client’s control. They may have been victimized by an alternative energy provider. They may rent their unit and have faulty heating systems that require supplementation of space heat. They may have faulty electrical systems and/or be paying for another unit – hallway- common area that they are unaware of. They may have a poorly functioning refrigerator provided by the landlord or even when it is their own, that they cannot afford to replace, because they have such a high utility bill.

AAG Lauren Pashayan has witnessed and can offer some observations about the poor housing that drives high energy bills for customers who must settle for substandard housing. During her 30 plus years as a legal aid attorney in downstate Illinois, she [LP2]was in many homes that were in such poor physical condition that the client could not help but heat and cool the out of doors. Her account of what she has seen includes:

- I stood in a bedroom closet and looked up through a hole in the ceiling through the attic, and through a hole in the roof, and saw daylight.
- I sat at a client's kitchen table with my client and her two young daughters, all of us wearing winter coats, with the oven on and the oven door wide open to provide *extra* heat to the apartment as the furnace was not putting out much heat.
  - As an aside, after 15 minutes in that apartment I had a monstrous headache from the fume-like smell, which stayed with me the rest of the day.
- I could not begin to count the number of homes in which I could see daylight around the front door frame and around window frames.
- Nor could I tell you how many homes I visited with *at least* one sheet of plywood nailed over the hole where window glass should have been. (I will never forget the one home where **every** window opening was covered by plywood. Sadly, that was not why she called legal aid.)
- One client kept a large armchair over a hole in the front room floor to prevent her 6-year old from falling through to the cellar *again*.

How could any of these customers control their energy use when every temperature change sends energy outside? And moving is rarely a viable option. Based on my experience and observation, the low-income rental housing stock is not weathertight and not maintained in a safe, healthy and habitable condition. Customers are often resigned to the sub-standard condition of their residence because it is not that different than those they lived in before. There is a certain sadness to the fact that many houses evaluated for weatherization work are deferred (aka rejected) because of their poor condition: too bad to fix; but not too bad for a child's home.

Low-income customers do not choose to have an unaffordable bill. Illinois energy policy should not punish the customer for being unable to afford the unaffordable bill.

#### **b. Information Collection and Reporting Requirements**

The Commission can reduce energy insecurity by enforcing the Rules currently in place, coupled with increased reporting requirements to monitor the application of the Rules. Part 280 of the ICC rules exists to ensure that Illinois households receive essential utility services “under reasonable terms and conditions,” guided by “fair and equitable procedures.” 83 Ill. Adm. Code (“Rule”) 280.5. The deferred payment arrangement (“DPA”) rules are an example of existing rules that have the potential to support affordable payment terms that achieve success. See 83 Ill. Adm. Code 280.120 and 83 Ill. Adm. Code 280.125 (low-income).

The DPA should be based on a customer’s ability to pay within the agreed upon time frame. *Id.* Customers are entitled to enter DPAs “so long as [they have] not failed to complete a previous DPA in the past 12 months.” 83 Ill. Adm. Code 280.120(b). A utility has discretion to enter into a DPA with any residential customer who owes the utility a past due balance, regardless of whether the customer previously failed to pay a DPA in full. *Id.* DPA periods must range from at least 4 to 12 months (6 to 12 months for low-income customers), but utilities can extend DPAs **beyond** 12 months at their discretion. 83 Ill. Adm. Code 280.120(g) and 83 Ill. Adm. Code 280.120(c). Customers whose financial situations change during a DPA are entitled to a one-time renegotiation of the terms of their DPA. 83 Ill. Adm. Code 280.120(k). Part 280 requires the utilities to enter into DPAs that maximize the opportunity for the customer to maintain service while retiring the debt. The Commission must collect and analyze DPA data to must ensure the letter and the spirit of the Part 280 rules are followed in every DPA.

The first step in monitoring the application of the Rules is to expand reporting requirements for all utility providers, energy as well as water and wastewater to include, at a minimum, the metrics required by *Illinois Commerce Commission On Its Own Motion In the Matter of Moratorium on Disconnection of Utility Services during the Public Health Emergency*

*Declared on March 9, 2020 pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act.* ICC. Docket No. 20-0309, (“Moratorium”) Order at Stipulation Exhibit 1 at page 16 (June 18, 2020). [A copy of the Stipulation Exhibit 1 is attached.](#)

The ICC has the power to supervise and regulate public utilities. 220 ILCS 5/4-101. The Commission should use this power to proactively require utilities to regularly report billing activities, so the Commission may monitor whether utilities are complying with the Rules, how identifiable communities are affected, and target its own efforts to protect affordability accordingly.

### **c. Assistance Programs**

No surprise but the assistance programs need to provide higher energy benefits and water and wastewater service financial assistance programs must be created. This past summer DCEO, the Illinois agency that administers the State’s LIHEAP and PIPP programs found that the energy burden of both LIHEAP (one-time benefits) and PIPP (monthly benefits) participants remained above 6% of household income even after receiving the energy assistance benefits. State of Illinois Presentation to PIPP Steering Committee July 2020, [page 15<sup>\[ss3\]</sup>](#). Recall that neither LIHEAP nor PIPP provides assistance for water and/or wastewater services. Thus, the family’s energy burden will be added to the family’s water and wastewater service bill burden.

There must be flexibility in how the assistance is applied. Program limitations often trump customer need in determining where to apply funds. Consider the following narrative of one client’s situation offered by a LIHEAP caseworker:

The client has been in PIPP for several years. [Utility] notified me that electrical usage has vastly increased, and BB [Budget Bill] will be over \$400/mo this next year. The family is multigenerational 5 adults- living in the family home that they own – at least 2 family members are disabled,

and the matriarch started working outside the home, and she is also the caretaker. Their furnace went out over the winter, and they used space heaters. They were receiving emergency furnace assistance, but it was an older home, and it took some time – it was put on hold due to COVID 19. They cannot afford to remain on PIPP. Their PIPP benefit for gas would have been \$0/mo, and for electric would have been \$50/mo. They have a budget balance due over \$1600. The Trueup adjustment they will get from PIPP at recert is \$196 to [electric utility]. We are advising them to apply for [the utility’s hardship program] and COVID 19 [utility] funds, and then to wait for a disconnection notice to get Reconnect Assistance from LIHEAP. It is too bad that we do not have some flexibility in situations such as this to put the assistance \$ we have where it is most needed.

The Commission must encourage assistance program administrators to compare program rules with regulatory and statutory requirements and where possible, implementation rules must be made more flexible so the customer and the caseworker can work together to address the customer’s utility crisis.

#### **d. Credit and Collections Practices**

Across Illinois low-income families struggle with utility debt collection. In its 2019 legal needs assessment<sup>6</sup> Land of Lincoln Legal Aid, the legal aid provider in 65 downstate counties, reported that 33% of the low-income respondents reported inability to pay utility bills on time. Only the inability to pay medical bills drew a higher response at 36%. *2019 Community Needs Assessment*, Land of Lincoln Legal Aid (LLLA) (“Legal Needs”), page 14. Survey respondents also reported utility shut off for non-payment was the most common collection. *Id.* at page 15. See attached Legal Needs excerpt, pages 14 and 15. Similarly another recent report identified utility debt as the second highest debt facing low income families, after student loan debt, with 33% of households with incomes less than \$15,000 per year and 22% of households with

<sup>6</sup> [http://www.homeenergyaffordabilitygap.com/03a\\_affordabilityData.ht](http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.ht)



incomes of more than \$15,000 per year reporting past due utility bills. *Stopping the Debt Spiral*, (“Stopping Debt Spiral”) POWER-PAC Illinois STOP Campaign Research and

Recommendations | Winter 2018 A COFI PROJECT[SS4]. Available online:

<https://cofionline.org/COFI/cofi-reports/stopping-the-debt-spiral/>

Analyzing the role debt plays in keeping families trapped in poverty, based on participants responses, researchers identified utility debt as one of the biggest hurdles for families.

The year my gas was turned off, I went for months without a stove, no hot water, and no heat. At the time, there were five of us living in the house—me and my four kids. My brother helped me pay off the bill and also the extra late fees. But just when I think I got it where it needs to be that gas bill shoots back up. The gas company’s payment plan just doesn’t work on my income. I make so little money that I can’t even afford the payment they’re asking me to make. Now I’m back with a balance of \$800!

Stopping Debt Spiral at page 8.

Getting sick is a luxury many low-income customers cannot afford. Consider the following comment offered by a low-income Chicago homeowner:

I went up over my limit on my bill because I was sick with flu, and I kept the heater going constantly. Oh God, it killed me. It's killing me now. I mean, yeah. [My bill is] \$142, I got to pay to stay on [Percentage of Income Payment Plan], you know. So I gotta do without other stuff. Medications, some medication, sometimes I can't buy it.

Energy Insecurity - Homeowners at page 12.

No one should do without medicine because they are afraid that they will lose their heat or lights.

Ultimately the Commission’s affordable utility policy must focus on the customer’s reasonable effort to pay the bill, not whether the bill is paid in full. The utility company-customer

relationship is one founded in contract law, albeit a contract law modified by the essential nature of the product and the regulated industry in which it exists. Illinois contract law abhors a penalty clause and prohibits enforcement of the same. *Stride v. 120 W. Madison Bldg. Corp.*, 132 Ill. App. 3d 601 (1st Dist. 1985). The *Stride Court* found the contract's damage clause was merely to secure performance and, thus, unenforceable as a penalty. See, *Id.* at 605 (citations omitted).

What are the disconnection provision and late fees but a penalty to secure performance?

Disconnection of a customer who is paying an affordable amount on their energy bill or on their water and wastewater bill is contrary to the principles acknowledging the essential nature of utility services and protecting Illinois debtors from punitive collection measures. The Commission must set a policy that prohibits the disconnection of a customer who is paying, at least, 6% of their monthly income on their monthly energy bill and, at least 4% of their monthly income on their wastewater and water service. Customer income may be determined by customer certification or qualification for state or federal assistance programs such as SNAP or supplemental social security income for people with disabilities.

#### **e. Energy Efficiency Measures**

There is a significant link between high energy burdens, inadequate housing, and poor health. ACEEE at 25. Low-Income people, communities of color, renters, and older adults disproportionately experience high and severe energy burdens. *Id.* at vi. These same groups “often experience racial segregation, high unemployment, high poverty rates, poor housing conditions, high rates of certain health conditions, lower educational opportunity, and barriers to accessing financing and investment.” *Id.* at 2. People with high energy burdens often “live in older, inefficient, and unhealthy housing,” which not only affects their energy bills, but also their “physical and mental health, nutrition, and low economic development.” *Id.* at 5. On average,

low-income people living in substandard housing use less energy than median-to-high income households but have higher energy burdens. *Id.* at 3.

People with substandard housing often engage “in coping strategies such as using secondary heating equipment (i.e. stoves, ovens, or space heaters) to compensate for inefficient or inadequate heating systems. *Id.* at 5. While energy efficiency spending has increased in recent years, these efforts have not met the needs of low-income households. *See Id.* at 3. **In 2015, only 6% of U.S. energy efficiency spending was dedicated to assisting low-income people. *Id.*** Low-income households could significantly benefit from weatherization and other building upgrades, but such measures require targeted and sustained community engagement to ensure that investments help those most in need of assistance. *Id.* at vi. Other issues require broader systemic efforts to alleviate racial, class, and age disparities.

By focusing efficiency measures on improving housing conditions, policymakers can simultaneously reduce energy insecurity and improve public health and safety. For example, sealing windows, upgrading HVAC systems, and installing insulation will not only improve efficiency, but can also prevent pests, moisture, and air pollution from entering the house, reducing allergies, mold, lung and respiratory disease, and extreme household temperatures in the winter and summer months. *Id.* at 25. The DCEO is in charge of administering Illinois’ weatherization program, 305 ILCS 20/7, but the ICC can assist in weatherization and housing standard work by comprehensively regulating utilities’ energy efficiency actions to ensure that the state’s most vulnerable populations are properly served. Full action may require an amendment to the Future Energy Jobs Act (“FEJA”), 220 ILCS 5/20-135, to incentivize greater spending on low-income housing. The ICC should do everything in its power presently and support necessary legislative changes to work toward statewide energy affordability.

While the ICC cannot solve these issues on its own, it is well within the Commission's power to take significant steps toward making utilities more affordable and helping Illinois' most vulnerable households.

- Respectfully submitted,

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